



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

January 22, 1957

Honorable Claude Isbell  
Executive Secretary  
Board of Regents  
State Teachers Colleges  
Box K, Capitol Station  
Austin, Texas

Opinion No. WW-3

Re: Payment of travel expenses  
of the presidents and/or  
their authorized represen-  
tatives of the six State  
Teachers Colleges to Austin  
during sessions of the  
Legislature.

Dear Sir:

We refer to your request presenting, in substance,  
the following data and question:

"On December 20, 1956, the Board of Regents  
of the State Teachers Colleges passed the follow-  
ing resolution:

"The President and appropriate members of  
the administrative staff of the six Teachers  
Colleges under the jurisdiction of this Board  
be authorized to attend called meetings initiat-  
ed by the Council of College Presidents and the  
following agencies; Legislative Budget Board, the  
Governor's Executive Budget office, the Commis-  
sion on Higher Education, or the Advisory Com-  
mittee to the Commission on Higher Education and  
also in response to calls made by legislative  
committees; with the understanding the resolu-  
tion on the same subject adopted by the Board  
at Huntsville, Texas, on October 26, 1956 remain  
in full force and effect. The motion adopted at  
the October 26 meeting reads as follows:  
The Board authorize the presence of the several  
presidents of the six teachers colleges, and/or  
their authorized representatives and the neces-  
sary official travel incident to the said pres-  
ence in Austin, Texas, for the performance of

their official duties and responsibilities at appropriate times during the interval in which the forthcoming regular session of the fifty-fifth Legislature may be convened. Such travel to be approved by the Chairman or a member of the local committee, provided the Chairman cannot be reached. In making a request for permission to go to Austin at State expense the President will set forth in his request the reason for going and after he has returned to give the Board a report on his activities and accomplishments while in Austin.'"

Question: Would the administrative officers or representatives of the state teachers colleges by complying with the foregoing resolution, be authorized to visit the City of Austin at any time during the 55th session of the Legislature and have their expenses paid for such trips out of the funds of these colleges?

Section 21 of Article V of House Bill 140, Acts of the 54th Legislature, Regular Session, 1955, chapter 140, page 1348 at page 1584 (Biennial Appropriation Bill, Special Provisions Generally Applicable to Agencies of Higher Education) provides:

"Travel authorizations. None of the moneys appropriated in this Article to the respective state agencies of higher education may be expended for reimbursing the official travel expenses of any executive head thereof, or of any member of the administrative staff thereof, to Austin during sessions of the Texas Legislature without the specific and advance, written approval or authorization by the Governing Board of such state agency of higher education."

The explicit language of Section 21, supra, contemplates that before any of the administrative officers of the several state agencies of higher education, which includes the state teachers colleges, shall be entitled to reimbursement for travel expenses to Austin during sessions of the Texas Legislature it must appear that written authorization for the specific trip was obtained from the governing board of the proper agency of higher education before such travel was performed.

Opinion No. O-4203 (1941) of this department concerned a provision of House Bill 272, Acts of the 47th Legislature, Regular Session, 1941, similar to the provisions of Section 21, supra. It was held in this opinion that since the advance written consent of a school's governing board was not obtained as required by the statute, prior to the performance of out of state travel, reimbursement for such travel was not permitted. We quote, in part, from the language of the foregoing opinion:

"The act is clear and explicit in its requirement that 'no travel shall be performed outside the state except upon the advance written consent of the school's Board of Regents or Trustees'. No exception is made from this requirement, authorizing such travel in emergency without the advance written consent of the school's Board of Regents or Directors. We are not at liberty to read such exception into the provisions above quoted."

We are confronted with the further question of whether the Board of Regents of the State Teachers Colleges could delegate legal authority to its chairman or a member of the local committee to pass upon applications for travel authorization to Austin during sessions of the Texas Legislature. It is our view that the Legislature by use of the language "specific and advance, written approval and authorization of the governing board of such state agency of higher education" indicated its intention that only the governing head of such state agency of higher education should exercise the discretion and authority therein contained, and that the exercise thereof could not be delegated to either the chairman of the Board or Agency or a member of the local committee. The general rule of law here applicable is stated by 34 Texas Jurisprudence, Section 79, page 459, as follows:

"It is a general rule that public duties must be performed and governmental powers exercised by the officer or body designated by law - that they cannot be delegated to others. This is particularly true of duties which are judicial in their nature or which call for the exercise of reason or discretion and which are a part of the public trust assumed."

We, therefore, conclude that the various administrative officers of the State Teachers Colleges shall be entitled to reimbursement for travel expenses to Austin during sessions of the Texas Legislature only if the provisions of Section 21, House Bill 140, supra, of the General Appropriation Bill of the 54th Legislature be complied with. This requires that such officer shall obtain the advance written consent of his governing board for each trip and that such consent may be granted by said board only while in regular or special session with the necessary quorum present for the transaction of business.

#### SUMMARY

In order for the administrative officers of the State Teachers Colleges to be entitled to reimbursement for travel expenses to Austin during sessions of the Texas Legislature written, advance authorization for each trip must be given by the Board of Regents of said Colleges pursuant to the provisions of Section 21 of Article V of House Bill 140, Acts of the 54th Legislature, Regular Session, 1955, chapter 140, page 1348 at page 1584. Such authority can be granted by the Board only at a regular or special meeting thereof with the necessary quorum present for the transaction of business.

Yours very truly,

WILL WILSON  
Attorney General

By   
Leonard Passmore  
Assistant

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APPROVED:

OPINION COMMITTEE

H. Grady Chandler, Chairman